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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Redevelopment of Spectrum to)
Encourage Innovation in the)
Use of New Telecommunications)
Technologies)

ET Docket No. 92-9

To: The Commission

OPPOSITION OF OMNIPPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. ("Omnipoint") opposes the
"Petition for Clarification and/or Reconsideration" filed by
the Utilities Telecommunications Council ("UTC") and the
"Petition for Clarification" filed by the American Public Power
Association ("APPA"). In the above captioned proceeding, insofar

every proposed PCS technology with respect to its interference potential to existing OFS users. Omnipoint's systems have been tested in over fifty cities, including those most heavily populated by incumbent OFS towers, such as Los Angeles, Houston and Chicago. The grandfathering of any group of microwave users has the potential to severely cripple the PCS industry.

Omnipoint has consistently advocated the adoption of equitable rules governing spectrum allocations for emerging technologies to ensure that no fixed microwave incumbent is subjected to harmful interference from a PCS system or forced to relocate without compensation or assurance that it will be ~~relegated to equally reliable, equal capacity, alternative~~

microwave licensees. However, because it had earlier expressed concern "that state and local government agencies would face special economic and operational considerations in relocating," Notice of Proposed Rulemaking ("NPRM"), 7 F.C.C.R. 1542, 1545 (1992), it exempted from this fully-compensated framework for transition those systems "licensed to the public safety and special emergency radio services -- including state and local governments, police, fire, and medical emergency communications... ." First Report and Order at para. 26.

These facilities may continue to operate in the 2 GHz band on a co-primary basis indefinitely, making voluntary negotiations the only means of relocating these incumbents.

In their petitions, UTC and APPA argue that the Commission could not have meant to exempt only public safety and emergency service licensees. Rather, they are certain that the Commission really meant to exempt "all state and local government licensees, such as public power agencies," APPA Petition at 3, but simply inadvertently forgot to do so. They urge the Commission to clarify this point.

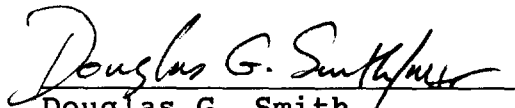
Omnipoint believes the Commission's rule is clear in only specifying an exemption limited to public safety and emergency service licensees and is entirely consistent with past Commission policy statements in this proceeding. In the NPRM, the Commission's concern was directed primarily to the "economic" burdens that would be placed upon "police, fire and

other public safety" agencies by relocation. NPRM 7 F.C.C.R. at 1545. It proposed an exemption only for those state and local facilities, not all such facilities. In its First Report and Order, the Commission simply adopted its limited proposal as a rule. There is no indication that the Commission intended to adopt a broader exemption, nor was there any reason for it to have done so. The economic considerations to which police, fire and other public safety agencies are entitled emanate from the fact that they, unlike public power agencies, are not revenue-generating entities and are reliant almost entirely upon budgets derived from taxpayers for their operating funds. The Commission decided to provide additional protection to this group. Thus, the limited exemption. Public power agencies, which are often separate entities run more like private businesses and which generate revenues by charging their

working. See Omnipoint Reply Comments in ET Docket No. 92-9 at 4. Omnipoint was, and remains, convinced that grandfathering is unnecessary so long as all incumbent licensees are fully protected in the relocation process. The Commission's "transition framework" substantially accomplished the goal of Omnipoint's proposal. Omnipoint does not agree with, but understands the reason behind, the Commission's limited exemption. But there is no valid policy reason for it to be enlarged as suggested by UTC and APPA.

The UTC and APPA petitions should be denied.

Respectfully submitted,



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March 30, 1993

CERTIFICATE OF SERVICE

I, Mark J. Tauber, hereby certify that, on this 30th day of March 1993, I caused copies of the foregoing Opposition of Omnipoint Communications, Inc. to be mailed, by first class, postage prepaid United States mail to:

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